S.B.CIVIL ARBITRATION APPLICATION NO.2/2006

ABDUL REHMAN VS. CHIEF ENGINEER, PWD & ORS.

DATE OF ORDER : 6/10/2006

HON'BLE SHRI RAJESH BALIA, J.

Mr.Sunil Beniwal, for the applicant.
Mr.L.R.Upadhaya, for the Respondents.

This application under Section 11 of the Arbitration and Conciliation Act, 1996 has been moved alleging that applicant's tender for execution of work for Public Works Department at Phalodi, District Jodhpur was accepted and pursuant thereto an agreement was executed being EED/PLD/407 of 1994-95.

The applicant alleged that dispute having arisen, he served a notice on the respondents to refer the dispute in terms of clause 21 to the Standing Committee, which is the named Arbitral Tribunal under the agreement. The respondents having not responded to the notice for referring the dispute to the Standing Committee, this application has been moved. Respondents have not filed any reply to the application, however, during the pendency of the application, referred the dispute to the Standing Committee which is named Arbitral Tribunal in the agreement.

In the facts and circumstances of the case, since dispute has been referred to the agreed Arbitral Tribunal under the agreement itself, notwithstanding that the respondents have lost right to appoint Arbitral Tribunal, I am not inclined to interfere and supersede the agreed Arbitral Tribunal by nominating a different Arbitral Tribunal as sole arbitrator.

The application, in the facts and circumstances, is disposed of without passing further orders.

Learned counsel for the applicant states that since respondents have lost their right to appoint Arbitral Tribunal after making of the application, the applicant has not appeared before the Standing Committee considering it to be void, therefore, it needs to be clarified that no adverse inference may be drawn against him. Prayer appears to be reasonable. The Arbitral Tribunal to whom the dispute has been referred shall not take notice of the absence of the applicant before it so far and proceed to adjudicate the dispute in accordance with law without considering his absence.

(RAJESH BALIA), J.

Pankaj Baweja.